

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ARTHUR J. RIEL,

Plaintiff,

- against -

MORGAN STANLEY and
MORGAN STANLEY & CO., INC.,

Defendants.
----- x

:
: 06 Civ. 5801 (TPG)

: **OPINION**

On August 22, 2006 defendants filed a motion to strike the complaint in this action. On September 6, 2006 plaintiff filed a memorandum in opposition to the motion to strike and made a cross-motion for sanctions against defendants' counsel for filing the motion to strike.

On May 23, 2007 plaintiff filed a motion to stay the proceedings in this case pending the outcome of an appeal in a companion case, Riel v. Morgan Stanley, et al. (06 Civ. 524). On June 11 defendants filed a notice to the effect that they are joining in the motion for a stay.

The court agrees with the basic proposition that the present action should be stayed pending the outcome of the appeal in the other case. However, the court believes that it should deal with the two motions previously filed in 2006.

No purpose is served by having defendants' motion to strike remain on the docket undecided. Accordingly, the court denies defendants'

motion to strike with leave to renew, if such renewal is appropriate, as the proceedings develop. Both parties agree that the results of a Court of Appeals opinion in 06 Civ. 524 may well have a bearing on 06 Civ. 5801. Therefore, it is likely that any attempt by defendants to strike or dismiss the complaint in 06 Civ. 5801 will need to be made with reference to the Court of Appeals ruling.

It is also appropriate to dismiss the cross-motion made by plaintiff seeking sanctions against defense counsel for making the motion to strike the complaint. Such a motion is, to say the least, premature in view of the state of the proceedings, as described in this opinion.

The joint motion to stay proceedings in this action is granted, except for the rulings on the 2006 motions.

SO ORDERED.

Dated: New York, New York
September 6, 2007

A handwritten signature in black ink, reading "Thomas P. Griesa". The signature is fluid and cursive, with a large, stylized initial "T".

THOMAS P. GRIESA
U.S.D.J.